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HUMAN RIGHTS COMMITTEE
Fiftieth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

Costa Rica

1. The Committee considered the third periodic report of Costa Rica (CCPR/C/70/Add.4) at its 1298th to 1300th meetings held on 25 and 26 March (CCPR/C/SR.1298-1300) and adopted */ the following comments.

A. Introduction

2. The Committee welcomes the opportunity to continue its dialogue with the State party but notes with regret that its report did not contain sufficient information on the implementation in practice of the Covenant. The Committee notes that the delegation provided useful information on several points not covered in the report.

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*/ At its 1315th meeting (fiftieth session), held on 6 April 1994.

3. The Committee expresses its concern over the inadequate steps taken by the State party properly to discharge its reporting obligations under article 40 of the Covenant. In this regard, the Committee regrets that its observations at the consideration of the second periodic report were not taken into account during the preparation of the third periodic report. Furthermore, the third periodic report did not at all conform to the reporting guidelines established by the Committee. The Committee is also concerned that the report was neither adequately publicized in Costa Rica nor available to the public or human rights organizations in Costa Rica in advance of its consideration by the Committee.

B. Factors and difficulties affecting the application of the Covenant

4. The Committee notes that there was no indication in the report concerning factors and difficulties affecting the application of the Covenant.

5. The Committee understands that a rising crime rate has considerably increased the workload of the judiciary.

C. Positive aspects

6. The Committee takes note with appreciation of the level of achievement in the enjoyment of human rights in Costa Rica. It notes with satisfaction the measures undertaken by the Government to protect human rights at the national level, such as those offices established for the protection of human rights, women, children and detainees and the recently established Office of the Defender of the Inhabitants. In particular, the Committee expresses its satisfaction with the good will demonstrated by the Government to achieve effective protection of human rights and the progressive approach it has adopted to incorporate international human rights standards into the domestic legal order. The Committee expresses its appreciation for the major contribution by Costa Rica aimed at strengthening international efforts to promote and protect human rights.

D. Principal subjects of concern

7. The Committee notes with concern that, in view of the inadequate information which has been provided by the State party, it is unclear to what extent the rights of detainees are protected in actual practice, particularly the right to liberty and security of person and the right of appeal. In that connection, concern is expressed at the present level of protection for detainees regarding lengthy pre-trial detention. Concern is also expressed at the inadequacy of training on human rights standards, particularly the provisions of the Covenant, provided to the police and security forces and the extent to which their activities are monitored.

8. The Committee notes with concern that many labour regulations, particularly those relating to freedom of association as protected under article 22 of the Covenant, are not in conformity with international standards. In particular, the Committee further notes that the rights of workers employed by small agricultural businesses, especially those who wish to form unions in coffee and sugar cane plantations, may not be protected under the current legal regime. Additionally, there is concern that the system of "solidarity" organizations (asociaciones solidaristas) may prevent the effective enjoyment of those rights in general.

9. With respect to article 18 of the Covenant, the Committee is concerned at the pre-eminent position accorded to the Roman Catholic Church. The Committee also notes with concern that certain provisions of Costa Rican legislation (inter alia, the Ley de Carrera Docente) confer on the National Episcopal Conference the power to effectively impede the teaching of religions other than Catholicism in public schools and the power to bar non-Catholics from teaching religion in the public school curricula.

10. The Committee notes with concern that many laws aimed at promoting gender equality have not had their intended effect and that there is still much progress to be made in this regard.

E. Suggestions and recommendations

11. The Committee recommends that existing measures to protect the rights of detainees be strengthened. In this connection, the Committee emphasizes the importance of closely monitoring pre-trial detention, and the need for prompt investigation into reports of

abuse. The Committee stresses the importance of adequate training for the police and other security forces and prison personnel with respect to the relevant provisions of the Covenant as well as other applicable international human rights standards, including the Standard Minimum Rules for the Treatment of Prisoners.

12. The Committee suggests that the Government consider steps to review and, where necessary, reform labour legislation to ensure that freedom of association, as guaranteed under article 22 of the Covenant, is enjoyed by all workers in Costa Rica and, in particular, that workers in small agricultural enterprises are free to organize.

13. The Committee recommends that the State party take steps to ensure that there is no discrimination in the exercise of the right to religious education, particularly with respect to access to religious teachings other than Catholicism. Current practices which make the selection of religious instructors subject to the authorization of the National Episcopal Conference are not in conformity with the Covenant.

14. The Committee recommends that further measures be taken to combat gender inequality and to improve the situation of women in Costa Rica.

15. The Committee strongly urges the Government to prepare its fourth periodic report in compliance with the guidelines for the preparation of State party reports and take into account concerns expressed during the consideration of the third periodic report. The Committee emphasizes that Costa Rica should be prepared to report on, and participate in, a dialogue on each article of the Covenant; and that this obligation is not negated by the fact that Costa Rica believes that it has given some of the relevant material to another treaty body. The fourth periodic report should contain, inter alia, detailed and updated information on the extent to which each of the rights protected under the Covenant, including article 27, are enjoyed in actual practice, and measures which had been taken during the reporting period to further implement the Covenant. The Committee emphasizes that the State party should not underestimate the importance of properly fulfilling its obligations under article 40 of the Covenant. In that connection, attention is drawn to the fact that appropriate advice and training for the submission of reports might be obtained from the Centre for Human Rights.

16. The Committee underlines the importance of involving concerned professional organizations, non-governmental organizations (NGOs), the media and the general public in efforts to improve the application of the Covenant. To this end, the State party should ensure that its reports under article 40 of the Covenant are publicized and readily accessible in Costa Rica in advance of their consideration by the Committee. Additional measures should be taken with a view to make provisions of the Covenant more widely known among judges, lawyers, teachers and the general public.

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

Mexico

1. The Committee considered the third periodic report of Mexico (CCPR/C/76/Add.2) from its 1302nd to 1305th meetings (CCPR/C/SR.1302-1305), held on 28 and 29 March 1994, and adopted 1/ the following comments:

A. Introduction

2. The Committee thanks Mexico for its report and welcomes the appearance of a large high-level delegation before the Committee despite the serious events which recently occurred there. It notes that the report was completed on time and takes into account the questions submitted by Committee members during their consideration of the previous periodic report as well as the general comments of the Committee. The oral presentation, accompanied by extensive documentation, served to update the written report and contributed to a frank and fruitful dialogue with the Committee.

1/ At its 1315th meeting (fiftieth session), held on 6 April 1994.

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3. The Committee thanks the State party for the core document (HRI/CORE/1/Add.12), drafted in accordance with the consolidated guidelines for the initial part of the reports of States parties which must be submitted under the various international human rights instruments (HRI/1991/1).

B. Factors and difficulties affecting the application of the Covenant

4. Socio-economic difficulties and extremely widespread poverty have led to the growing marginalization of a vast portion of the population, in particular street children and members of indigenous groups who, as a result, are denied the protection of the basic rights guaranteed by the Covenant. Moreover, rural populations are isolated because of the remoteness of agrarian zones from decision-making centres and judicial organs, which impedes the realization of human rights throughout Mexican territory.

C. Positive aspects

5. The Committee welcomes with satisfaction the establishment of the National Human Rights Commission responsible for conducting investigations and making recommendations to the Government. The Committee notes the establishment of similar commissions within each of the states of the Union at the local level. These new institutions and the development of human rights legislation which, in particular, prescribes punishment for torture and provides for compensation of victims, reflect progress towards the promotion and protection of human rights in Mexico. The extension of the right to vote to persons who had hitherto been deprived of that right and access to the public service by citizens who are not Mexican nationals by birth are positive developments in ensuring respect for article 25 of the Covenant. Allowing non-governmental organizations the opportunity to visit any part of the country, in particular the sensitive areas, demonstrates the Government's willingness to cooperate with organizations for the defence of human rights.

D. Principal subjects of concern

6. The Committee strongly deplores the events which recently occurred in Chiapas, which resulted in many violations of the rights guaranteed by the Covenant, in particular, in articles 6, 7 and 9 thereof. The Committee notes that, since a state of emergency was not declared in Chiapas in early 1994, the authorities have restricted the rights provided for in the Covenant,particularly in articles 9 and 12, without respecting the guarantees provided for therein.

7. The Committee is disturbed by the large number of complaints concerning acts of torture or arbitrary detention when prosecution and sentencing of the guilty parties occurs very infrequently and falls far short of the recommendations

of the National Human Rights Commission of Mexico, which has condemned these acts. Similarly, enforced or involuntary disappearances and extrajudicial executions are not systematically followed by investigations in which the perpetrators are identified, brought to justice and punished and the victims compensated. Lastly, the conditions in prison and other detention centres and the slowness of judicial procedures continue to be a major cause for concern.

8. As amparo proceedings have proved to be ineffective, immediate release of a person who has been irregularly detained is not fully guaranteed in accordance with article 9 of the Covenant.

9. The Committee deplores the gross violation of both the right to life and the right to freedom of expression constituted by the frequent murder of journalists, which has reached alarming proportions.

10. The Committee is further concerned by the conditions in which the rights provided for in articles 21 and 22 of the Covenant are exercised, as evidenced by the severe repression of peaceful demonstrations by striking workers.

11. The Committee has doubts and concerns about the electoral system and practices and the climate of violence in which the most important elections have taken place. It notes that this situation precludes the full guarantee of free choice by all voters and the participation of all citizens in the conduct of public affairs, in particular through freely chosen representatives, in accordance with article 25 of the Covenant.

12. Lastly, the Committee has expressed concern about the situation of indigenous populations. Article 27 of the Constitution concerning agrarian reform is often implemented to the detriment of persons belonging to such groups. The delay in resolving problems relating to the distribution of land has weakened the confidence of these populations in both local and federal authorities. Moreover, these persons are subject to special laws, particularly in Chiapas, which could create a situation of discrimination within the meaning of article 26 of the Covenant.

E. Suggestions and recommendations

13. The Committee recommends that the State party should provide the National Human Rights Commission with the authority necessary for its effective functioning, in complete independence from the political and administrative authorities, and should allow it to refer cases to the competent judicial authorities where it finds that rights guaranteed by the Covenant have been violated.

14. The Committee strongly recommends that all cases of extrajudicial executions, torture and arbitrary detentions be

investigated in order to bring those suspected of having committed such acts before the courts, that those found guilty be punished, and that the victims be compensated. Law enforcement officials should be properly trained so that ensuring respect for the basic rights of the persons placed under their control becomes an integral part of their task.

16. The Committee suggests to the Mexican authorities that they fully implement article 25 of the Covenant, in particular with regard to elections, by taking legal and practical measures to ensure equitable representation of the entire electorate, and to ensure that the balloting is free from fraud and takes place in an atmosphere of calm essential to the voters' exercise of free choice. To that end, the willingness of the authorities to accept international observers during the balloting would contribute to the transparency of the elections.

17. The Committee invites the authorities actively to pursue programmes for the protection of vulnerable children, particularly street children. Similarly, the progress achieved with regard to the status of women should be developed further and greater efforts should be made to combat family violence.

18. The Committee recommends that the Government should give consideration to more equitable land distribution within the framework of agrarian reform and that it should take into account the rights and aspirations of indigenous populations in that connection. Furthermore, measures for the implementation of article 4 of the Constitution should be considerably strengthened. Indigenous populations should have the opportunity to participate in decision-making on matters that concern them.